

# MEMORANDUM

Special Item No. 3

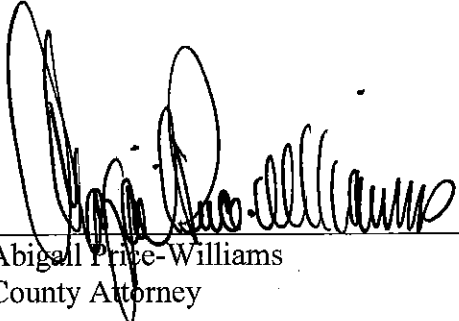
**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** February 17, 2017

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution related to immigration detainer requests; reaffirming that Miami-Dade County remains fully compliant with the United States Constitution and all applicable federal laws; amending Resolution No. R-1008-13; directing the Mayor to implement a policy declining to detain individuals in its custody beyond the time they would otherwise be released pursuant to detainer requests issued by United States Immigration and Customs Enforcement, unless the request is supported by a warrant of arrest based on probable cause for a violation of immigration law

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams  
County Attorney

APW/jls



# MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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County Attorney

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor

Special Item No. 3

Veto \_\_\_\_\_

2-17-17

Override \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RELATED TO IMMIGRATION DETAINER REQUESTS; REAFFIRMING THAT MIAMI-DADE COUNTY REMAINS FULLY COMPLIANT WITH THE UNITED STATES CONSTITUTION AND ALL APPLICABLE FEDERAL LAWS; AMENDING RESOLUTION NO. R-1008-13; DIRECTING THE MAYOR OR DESIGNEE TO IMPLEMENT A POLICY DECLINING TO DETAIN INDIVIDUALS IN ITS CUSTODY BEYOND THE TIME THEY WOULD OTHERWISE BE RELEASED PURSUANT TO DETAINER REQUESTS ISSUED BY UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, UNLESS THE REQUEST IS SUPPORTED BY A WARRANT OF ARREST BASED ON PROBABLE CAUSE FOR A VIOLATION OF IMMIGRATION LAW

**WHEREAS**, the United States Department of Homeland Security Immigration and Customs Enforcement (“ICE”) issues immigration detainer requests to local criminal justice agencies, including Miami-Dade Corrections and Rehabilitations Department; and

**WHEREAS**, ICE detainer requests are issued to Miami-Dade Corrections and Rehabilitation requesting that the County hold the inmate until ICE can assume custody of the inmate, up to 48 hours after the inmate would otherwise be released; and

**WHEREAS**, the federal government does not directly reimburse Miami-Dade County for the costs of compliance with ICE detainer requests; and

**WHEREAS**, the County Attorney has opined that ICE detainer requests are merely requests which may be declined by Miami-Dade County; and

**WHEREAS**, at least 30 counties across the state of Florida; and hundreds of other municipalities and counties across the United States have implemented policies establishing criteria to determine whether and under what circumstances ICE detainer requests will be honored; and

**WHEREAS**, a policy of blanket compliance with ICE detainer requests could undermine trust between local police officers and the immigrant community of Miami-Dade County; and

**WHEREAS**, on December 3, 2013, this Board adopted Resolution No. R-1008-13, which directed the Mayor or Mayor's designee to implement a policy whereby an ICE detainer request would be honored only if the federal government agreed to reimburse Miami-Dade County for the costs of detention and the inmate that is the subject of the request has a previous conviction for a forcible felony, as defined in Florida Statute section 776.08, or has at the time that Miami-Dade Corrections receives the detainer request, a pending charge of a non-bondable offense, as provided by Article I, Section 14 of the Florida Constitution, regardless of whether the bond is eventually granted; and

**WHEREAS**, the intent of Resolution No. R-1008-13 was to save Miami-Dade County taxpayers the cost of detaining non-violent inmates beyond the point at which they would be released absent an ICE detainer request; and to strengthen the trust between local police officers and the immigrant community of Miami-Dade County; and

**WHEREAS**, on January 25, 2017, President Donald J. Trump signed an Executive Order entitled Enhancing Public Safety in the Interior of the United States ("Executive Order"); and

**WHEREAS**, the Executive Order asserts that jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373 are not to eligible to receive federal grants, except as deemed necessary for law enforcement purposes; and

**WHEREAS**, the legality of the Executive Order has been challenged in federal court in a number of jurisdictions around the country; and

**WHEREAS**, 8 U.S.C. § 1373 provides that a local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving

from, ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual; and

**WHEREAS**, Miami-Dade County fully complies with 8 U.S.C. § 1373; and

**WHEREAS**, Miami-Dade County Corrections and Rehabilitation Department shares information about inmates with federal and state agencies at booking and release, which exceeds the requirements imposed by 8 U.S.C. § 1373; and

**WHEREAS**, Miami-Dade County will continue to comply with the United States Constitution and all federal laws; and

**WHEREAS**, the Florida Sheriffs Association has issued a legal alert stating that court decisions “call into question the validity of detaining inmates based solely upon a detention order of Immigration and Customs Enforcement (‘ICE’) when no probable cause otherwise exists to support their seizure” and that detainers “will not shield county jails from liability”; and

**WHEREAS**, it is in the best interest of Miami-Dade County to minimize liability and avoid costly litigation by not honoring detainers unless they are supported by a warrant of arrest based on probable cause for a violation of immigration law,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

**Section 1.** This Board reaffirms its position that Miami-Dade County remains fully compliant with the United States Constitution and all applicable federal laws.

**Section 2.** This Board hereby amends Resolution No. R-1008-13 to ensure that, related to immigration detainer requests, Miami-Dade County remains fully compliant with all applicable federal laws and the United States Constitution, and to direct the Mayor to implement a policy whereby Miami-Dade Corrections and Rehabilitations Department shall decline to detain individuals in its custody beyond the time they would otherwise be released pursuant to

detainer requests issued by United States Immigration and Customs Enforcement, unless the request is supported by a warrant of arrest based on probable cause for a violation of immigration law.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

- |                                     |                      |
|-------------------------------------|----------------------|
| Esteban L. Bovo, Jr., Chairman      |                      |
| Audrey M. Edmonson, Vice Chairwoman |                      |
| Bruno A. Barreiro                   | Daniella Levine Cava |
| Jose "Pepe" Diaz                    | Sally A. Heyman      |
| Barbara J. Jordan                   | Joe A. Martinez      |
| Jean Monestime                      | Dennis C. Moss       |
| Rebeca Sosa                         | Sen. Javier D. Souto |
| Xavier L. Suarez                    |                      |

The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of February, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Anita Viciano Zapata

